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OFFICE OF  
INSURANCE COMMISSIONER

REPLY TO:  
OLYMPIA OFFICE  
INSURANCE BUILDING  
OLYMPIA, WASHINGTON 985  
753-7300, AREA CODE 206

BULLETIN

No. 90-3

June 4, 1990

Subject: PUBLIC ADJUSTERS—LOSS OF LICENSE FOR VIOLATION OF LAW

Reports have come to us that public adjusters are soliciting business with the promise that the fees for their services will be paid by the contractor selected to reconstruct the loss. In other words, the insured is promised "free" services from the public adjuster.

Such practice violates the laws pertaining to public adjusting in our state, and demonstrates the licensee to be untrustworthy and unqualified to retain a public adjuster's license.

Pursuant to RCW 48.17.050, an "adjuster" is

any person who, for compensation as an independent contractor or as an employee of an independent contractor, or for fee or commission, investigates or reports to his principal relative to claims arising under insurance contracts, on behalf solely of either the insurer or the insured. . . . .

A "public adjuster" means

an adjuster employed by and representing solely the financial interests of the insured named in the policy.

Obviously, if public adjusters must sell the services of a particular contractor in order to earn their adjusting fees, they are not representing solely the financial interests of the insured. They are dividing their loyalty and limiting their ability to provide unbiased objective advice to the insured. They are also causing the reasonableness of the contractor's bid to become distorted. It should not be necessary to describe the payment from the contractor as a "bribe" or "kickback" to make the point, although those terms would appear to be appropriate.

In years past, we have rejected attempts by building contractors to be licensed as public adjusters where the intent was to have that contracting firm bid on potential jobs while it, or an affiliated adjuster under its license, would act as the public adjuster for the insured who had sustained the loss. We found there would be an inherent conflict of interest in such practice. A public adjuster cannot have a dual interest or function related in anyway with a loss he or she has been retained to adjust.

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A public adjuster must act solely on behalf of the insured. Receipt of money or other considerations by a public adjuster from anyone other than the insured, where the payment or transfer is directly or indirectly related to the adjustment of an insurance loss, is evidence that the adjuster is representing someone in addition to the insured and will constitute grounds for revocation of the adjuster's license, whether or not there has been advance disclosure thereof to everyone involved in the insurance claims settlement.

DICK MARQUARDT  
INSURANCE COMMISSIONER